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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/711,478	11/13/2000	Brian A. Vulpitta	MA-12957	7902
7590	02/08/2005		EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114-2518			RHEE, JANE J	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	09/711,478	VULPITTA ET AL.	
	Examiner	Art Unit	
	Jane Rhee	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 September 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 and 16 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10, 16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

<ol style="list-style-type: none"> 1)<input type="checkbox"/> Notice of References Cited (PTO-892) 2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3)<input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>12/23/2004</u>. 	<ol style="list-style-type: none"> 4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6)<input type="checkbox"/> Other: _____.
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DETAILED ACTION

Rejections Withdrawn

1. The 35 U.S.C. 102(b) rejection anticipated by Rabuse of claim 7 has been withdrawn due to applicant's amendment on 11/5/2004.
2. The 35 U.S.C. 103(a) rejection over Schonhorns in view of Rabuse of claims 1-11 has been withdrawn due to applicant's amendment on 11/5/2004.
3. The 35 U.S.C. 103(a) rejection over Rabuse in view of Bastian Jr. of claims 1-10 has been withdrawn due to applicant's amendment on 11/5/2004.

New Rejections

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schonhorns (0430548) in view of Rabuse (2772774).

As to claims 1,10, and 16, Schonhorns et al. discloses an adhesive tape product comprising a hollow cylindrical core (figure 5 number 10) having a diameter and a width, and an outer surface a compressible foam strip surrounding the core (figure 5 number 60), and a length of adhesive tape having a uniform width and a length substantially greater than the width wound in several forms about the core and the foam strip (col. 5

lines 9-12). As to claims 2-4, and 9, Schonhorns et al. discloses that the foam strip surrounding the core in a single layer has a total thickness of 1mm (col. 5 line 14). As to claim 5, Schonhorns et al. discloses that the core comprises a thin solid tubular wall (figure 5 number 10). Schonhorns et al. discloses a length of adhesive tape comprising three portions; a leader portion fixed to the core (col. 5 lines 4-6), a foam support portion (figure 5 number 60) and a useable tape portion wherein the foam support portion is positioned after the leader portion and before the usable tape portion (col. 5 lines 4-6). The adhesive, foam and tape taught by Schonhorns et al. provides an equivalent function of the tape leader portion, foam strip and usable tape portion wherein the tape leader portion is adhered to the core, the foam portion is positioned after the leader portion and the usable tape portion is adhered and wrapped around the foam as desired by the applicant wherein the invention produces a collapsible effect by enveloping the outer surface of a non severed core with foam (col. 4 lines 56-col. 5 line 1). Furthermore, the adhesive disclosed by Schonhorns et al. in col. 5 lines 4-6 functions the same as the tape leader portion claimed by the applicant since it adheres to the foam support portion prior to the foam support portion being positioned before the usable tape portion.

As to claim 6 and 7, Schonhorns fail to disclose that the core has an outer surface bulging outwardly near the core's axial center giving the core a barrel shape.

Rabuse teaches that the core has an outer surface bulging outwardly near the core's axial center giving the core a barrel shape for the purpose of obtaining a roll of tape that is highly resistant to telescoping (col. 3 line 4-5).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Schonhorns with a an outer surface bulging outwardly near the core's axial center giving the core a barrel shape in order to obtain a roll of tape that is highly resistant to telescoping (col. 3 line 4-5).

Response to Arguments

5. Applicant's arguments filed 9/14/2004 have been fully considered but they are not persuasive.

In response to applicant's argument that Schonhorn does not disclose a length of adhesive tape comprising three portions, a leader portion fixed to the core, a foam portion, and a usable tape portion, and further argued that Schonhorn does not disclose a length of adhesive tape comprising the three portions, The adhesive, foam and tape taught by Schonhorns et al. provides an equivalent function of the tape leader portion, foam strip and usable tape portion wherein the tape leader portion is adhered to the core, the foam portion is positioned after the leader portion and the usable tape portion is adhered and wrapped around the foam as desired by the applicant wherein the invention produces a collapsible effect by enveloping the outer surface of a non severed core with foam (col. 4 lines 56-col. 5 line 1). Furthermore, the adhesive disclosed by Schonhorn et al. in col. 5 lines 4-6 functions the same as the tape leader portion claimed by the applicant since it adheres to the foam support portion prior to the foam support portion being positioned before the usable tape portion.

In response to applicant's argument that Schonhorn fails to disclose a usable tape portion wherein a foam strip is fixed to the tape foam support portion, in figure 5

applicant discloses a core with a foam portion that is adhesively attached to the core, however fail to disclose the usable tape portion, however, Schonhorn discloses that figure 5 is an alternate embodiment of a collapsible core according to the invention with is a roll of adhesive tape therefore, the usable tape portion wherein a foam strip is fixed to the tape foam support portion, although not shown in figure 5, the usable tape portion is to be inserted on top of the foam portion wherein the invention produces a collapsible effect by enveloping the outer surface of a non severed core with foam (col. 4 lines 56-col. 5 line 1).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jane Rhee

Jane Rhee
January 28, 2005

Harold Pyon
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1/11/02 2/7/05